

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

RECEIVED
OCT 18 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Closed Captioning Requirements for)
Digital Television Receivers)

ET Docket No. 99-254

COMMENTS OF THE NATIONAL CABLE TELEVISION ASSOCIATION

The National Cable Television Association ("NCTA"), by its attorneys, hereby submits its comments in the above-captioned proceeding. NCTA is the principal trade association of the cable television industry in the United States. Its members include cable television operators, cable programmers, and manufacturers of equipment.

INTRODUCTION

The transition currently underway to digital transmission and receipt of programming for digital television (DTV) receivers is an evolutionary process. All segments of the cable industry -- cable programmers, cable operators, and equipment manufacturers -- are working to ensure that consumers will gain the benefits of digital technology, while at the same time continuing to serve the embedded base of analog television sets.

The Notice of Proposed Rulemaking in this proceeding is directed at one aspect of the transition to digital -- the ability of digital television sets to display closed captioning information. It proposes to amend Part 15 of the FCC's rules to adopt technical standards for the display and decoding of closed captions in DTV receivers. The Notice seeks comment on whether it should incorporate into its rules "the relevant sections" of EIA-708-A, a standard

No. of Copies rec'd 011
List ABCDE

adopted by the Electronics Industries Alliance for the encoding, delivery and display of closed captioning for digital television systems.¹

While ostensibly dealing only with this discrete aspect of the digital transition, the Notice has significant implications for the cable industry. NCTA urges the Commission to consider the impact on and to minimize disruptions to the cable industry as it adopts rules addressing digital captioning.

ARGUMENT

I. THE COMMISSION SHOULD ENSURE THAT ITS DIGITAL TV RECEIVER RULES DO NOT UNDO THE CAREFUL BALANCE ADOPTED IN THE FCC'S CAPTIONING RULES

Cable networks have undertaken significant efforts and have expended significant resources to attain the captioning levels established by the FCC in 1997 and reaffirmed on reconsideration just last year. Beginning in the year 2000, at least 450 hours per calendar quarter per channel of “new” programming (programming first shown after January 1, 1998) must be captioned.² This transition progressively ramps up to require virtually 100 percent captioning of “new” programming by 2006.

The new digital standard includes features not available for analog captioning. Those features include the ability to customize the caption text to modify its font, spacing, color or screen position. The new standard also permits caption providers to include alternative captions, such as foreign language or “easy reader” captions.³

Given that the Commission has just recently imposed analog captioning obligations, NCTA agrees with the Notice’s statement that broadcasters (and presumably cable networks as

¹ Notice at ¶¶5-6.

² 47 C.F.R. §79.1(b).

³ Id. at ¶6.

well) “are not obligated to provide the extensive features of EIA-708-A.”⁴ This approach is sensible given the extensive captioning efforts already underway, and the significant resources that already have been invested to caption analog programming.

The Notice’s suggestion is also consistent with the Commission’s previous determination not to impose standards governing the quality of closed captioning. The FCC in its captioning order rejected a proposal that would have regulated “non-technical” aspects of captioning, including, among other things, placement, style, and type font. In so doing, the Commission explained that:

there are vast amounts of programming that will need to be captioned and those responsible for captioning under our rules will need to undertake significant efforts to ensure that the programming they distribute is in compliance with our rules. By leaving the development of quality standards to the marketplace, we are allowing video programming providers to establish quality standards and quality controls for the non-technical aspects of captioning through their arrangements with captioning suppliers or as part of the requirements of their programming contracts and licensing agreements. We expect that this approach will result in high quality captions comparable to the level of quality of other aspects of programming such as the audio and video.⁵

The transition to digital captioning should not change this sound conclusion. In fact, this decision makes just as much sense – if not more – when applied to captioning during this difficult and costly transition. While some cable program networks are in the forefront of transmitting digitally, relatively few digital television sets have been sold to consumers. Imposing additional costs through more expensive captioning obligations may well retard the development of additional digital programming by raising the costs of providing that programming.

⁴ Id. at ¶7, n.13. EIA just last month modified its captioning standard and no longer relies on EIA 708-A referenced in the Notice of Proposed Rulemaking. EIA-708-B is now the new operative standard.

II. THE COMMISSION SHOULD PROVIDE A REASONABLE SCHEDULE FOR TREATING DIGITAL PROGRAMMING AS “NEW PROGRAMMING” UNDER THE CAPTIONING RULES

The Notice proposes that “once the standards adopted in the instant proceeding are effective, programming prepared or formatted for display on television receivers equipped for display of digital transmissions will fall under the established definition of ‘new programming’ and be subject to the transition schedule for the captioning of new programming.”⁶ The effective date suggested in the Notice would be one year after adoption of new rules. At that time, the Notice proposes that manufacturers must begin to “includ[e] this functionality in its products.”⁷ Whatever the appropriate schedule might be for television set manufacturers, a one-year transition to commence digital captioning of cable programming is simply inappropriate.

The closed captioning rules adopted by the Commission in 1997 provide an eight-year transition to the full captioning of new programming. The FCC understood that “the limited number of available captioners and captioning services in existence, the increased demand for captioning which has been created by Section 713, and the cost of captioning”⁸ warranted a phase-in for captioning obligations.

Under that schedule, program networks had two years before the first benchmark commenced. That two-year allowance, and eight-year total transition for captioning new programming, was appropriate even during a period where the captioning of analog programming was a well-established practice. The captioning of digital programming to correspond to new FCC decoder standards presents these same challenges – and more. In

⁵ Report and Order, 13 FCC Rcd. 3272, 3274 (1997).

⁶ Notice at ¶4.

⁷ Id. at ¶14.

⁸ Report and Order, 13 FCC Rcd. at 3278.

contrast to analog captioning, equipment currently does not even exist that is capable of captioning consistent with the standard proposed in the Notice. Once equipment is developed for digital captioning, program networks (or outside captioners) must budget for and acquire new equipment. Captioners then must be trained to use it. Programming must be produced with these new captions.

For all these reasons, the Commission should ensure that program networks are provided sufficient time to begin captioning in an entirely new format. The Commission must recognize that there will be a ramp-up period for digital captioning and adopt realistic rules that do not impose an undue burden on program networks.

III. ANY STANDARD SHOULD NOT OBSOLETE EXISTING CABLE BOXES THAT CANNOT READ THE NEW FORMAT

The cable industry today already uses a method of transmitting captions in digital programming. These digital networks – such as networks available through Headend in the Sky (“HITS”) and other networks available on digital tiers – are intended to be viewed on analog television sets. However, in the future they will be seen not only on analog sets but also on digital sets. To the extent that the Notice proposes to adopt a decoding standard for digital television sets that differs from the method used by the cable industry today for digital transmissions, it raises serious issues of backward compatibility.

Currently, some cable programmers have invested in digital captioning equipment that enables them to transmit captions viewable on analog television sets. This method, DVS-157, adopted by the Society of Cable Television Engineers (“SCTE”), is used to transport analog closed captioning using the EIA-608 standard described in the Notice. Many cable operators use digital headend equipment that supports this method of captioning. And they have invested in

digital-to-analog set-top converter boxes that receive this information, and then regenerate it on Line 21 of the Vertical Blanking Interval so it is viewable on analog television sets.

Millions of digital-to-analog converter boxes that are currently deployed use this method. These digital-to-analog set tops will continue to be used for years to come. Therefore, digital cable program networks would need to carry captioning information in a manner that could be read by these boxes for analog viewers, and could be read by decoders in digital television sets as well.

The standard proposed in the Notice for digital television sets would not be compatible with the DVS-157 standard used by the cable industry today. If adopted, it therefore would have two possible effects, both of which raise significant cost and fairness issues for NCTA members. Cable programmers might be forced to transmit captioning for their digital networks in two formats – one that can be read by existing digital-to-analog converters (DVS-157) and one that can be read by digital television sets (EIA-708). Alternatively, many cable operators might be forced to modify their digital headend equipment and switch out their existing boxes, which do not read EIA-708. A different way of addressing this issue could be to incorporate a standard for digital television sets that is compatible with the DVS-157 standard already used by many players in the cable industry today. These choices all impose costs, some of which are considerable and raise fundamental fairness issues for those who have already committed resources to meet the needs of analog set users.

None of these issues is addressed in the Notice. But the Commission should consider these issues prior to forging ahead with a new standard for digital television set manufacturers that by default imposes these potentially significant burdens on the cable industry. Accordingly,

we urge the Commission to undertake a cost-benefit analysis among these choices before adopting a new methodology for the display of captions on new digital television sets.

As the transition to digital progresses, changes in set-top boxes and cable-ready digital television receivers will ensure that the marketplace works to provide additional captioning options for deaf and hearing-impaired customers. But mandating the rapid introduction of new television receivers with decoding capability incompatible with cable television's captioning today may strand millions of set-top boxes unnecessarily and impose additional unnecessary costs on digital cable networks' captioning efforts. Thus, the Commission should ensure that any rules it adopts here take into account issues of backward compatibility with existing equipment.

CONCLUSION


The transition from analog to digital transmissions will take considerable effort. So too will the transition to a fully-captioned environment for new programming. Those efforts are already well underway. The Commission should take care not to adopt new digital captioning rules that inadvertently hinder those efforts.

Respectfully submitted,

Jill Lockett
Vice President, Program Policy Network

William Check
Vice President, Science & Technology

Andy Scott
Director of Engineering,
Science & Technology


Daniel L. Brenner
Diane B. Burstein
Counsel for the National Cable
Television Association
1724 Massachusetts Avenue, NW
Washington, D.C. 20036
(202) 775-3664

October 18, 1999